

Title 22. California Code of Regulations
Division 1.8. California Department of Aging

TEXT OF MODIFIED REGULATIONS

The California Department of Aging has illustrated changes to the original text in the following manner: language proposed during the 45-day comment period (3/23/01-5/10/01) appears in single underline; proposed modifications during this 15-day comment period (7/23/01-8/7/01) appear in double underline for additions, and ~~strike through~~ for deletions.

Chapter 4. Title III Programs—Program and Service Provider Requirements

Article 6. 5. Title III D Services.

Article 6. Title III C—Elderly Nutrition Program

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§ 7630. Definitions.

In addition to the definitions in Chapter 2 of this Division, the following definitions shall apply to this Article:

(a) "CURFFL" means the California Uniform Retail Food Facilities Law, which is a uniform statewide health and sanitation standard for food facilities, found in Section 113700 et seq., California Health and Safety Code.

(b) "Disability" means a condition attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in one (1) or more of the following areas of major life activity:

(1) Self-care.

(2) Receptive and expressive language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

(7) Economic self-sufficiency.

(8) Cognitive functioning.

(9) Emotional adjustment.

(c) "Elderly Nutrition Program" means a program which provides nutrition services, as authorized by the Older Americans Act of 1965, as amended, and which shall be provided in accordance with the provisions of this Article.

(d) "HACCP" means Hazard Analysis Critical Control Point, which This is a prevention based food safety system found in the CURFFL, which includes a HACCP plan based on HACCP principles.

(e) "Nutrition counseling" means provision of individualized advice and guidance to individuals who are at nutritional risk because of their health or nutritional history, dietary intake, medications use, or chronic illnesses, about options and methods for improving their nutritional status, performed by a registered dietitian in accordance with Sections 2585 and 2586, Business and Professions Code.

(f) "Nutrition education" means informing recipients of congregate and home-delivered meals about current facts and information which will promote improved food selection, eating habits, nutrition, health promotion, and disease prevention practices.

(g) "Nutrition-related supportive services" means outreach, transportation, food shopping assistance, and escort of a participant to nutrition sites.

(h) "Nutrition screening" means completion of a nutrition screening checklist by eligible individuals to determine if they are at nutrition risk. A nutrition screening checklist is a federal public information collection requirement in the National Aging Program Information System (NAPIS), found in the Federal Register, Volume 59, No. 188, September 29, 1994.

(i) "Nutrition services" means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to ~~older~~ eligible individuals at congregate sites or in their homes.

(j) "Older individual" means a person sixty (60) years of age or older.

(k) "Provider" means an entity providing nutrition services. The provider may either be an AAA providing nutrition services directly with Department approval in accordance with subsection 7320(c) of this Division, or an entity under contract with an AAA to provide nutrition services in accordance with Section 7352 of this Division.

(l) "Registered Dietitian" means a person who shall be both:

(1) Qualified as specified in Sections 2585 and 2586, Business and Professions Code, and;

(2) Registered by the Commission on Dietetic Registration.

(m) "Volunteer" means an individual who provides services without pay, but may receive reimbursement for expenses.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code; Reference: Sections 2585 and 2586, Business & Professions Code; Section 113700 et seq., Health & Safety Code; 42 U.S.C. ~~3016(a)(2)(C)~~ 3002(8), 3030d, and 3030g-21; Section 9109, Welfare and Institutions Code; Section 7100-7155, California Code of Regulations; Federal Register, Volume 59, No. 188.

§7632. Department Administration of the Elderly Nutrition Program.

§ 7632.1 Purpose

The purpose of the Elderly Nutrition Program is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21; Section 9002, 9108, and Section 18325 et seq., Welfare and Institutions Code.

§ 7632.3 Goals and Objectives.

(a) Department goals of the Elderly Nutrition Program are to maintain or improve the physical, psychological, and social well-being of older individuals in California, by providing or securing appropriate nutrition services.

(b) Department objectives of the Elderly Nutrition Program are to:

(1) Give preference to older Californians in greatest economic or social need with particular attention to low-income minority individuals.

(2) Serve meals that provide one-third (1/3) of the Recommended Dietary Allowances (RDAs), are safe and of good quality, through the promotion and maintenance of high food safety and sanitation standards.

(3) Promote good health behaviors through nutrition education and nutrition screening of participants.

(4) Promote or maintain coordination with other nutrition-related supportive services for older individuals.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Sections 9109, 9110, and 9111(f), Welfare and Institutions Code;

42 U.S.C. 3030g-21.

§ 7632.5 Administrative Responsibilities.

(a) The Department shall be responsible for the administration of the Elderly Nutrition Program and shall have duties that include:

- (1) Monitoring and evaluating nutrition services.
- (2) Disseminating information to AAAs about nutrition advancements and developments.
- (3) Promoting coordination between nutrition services and community-based organizations serving older individuals.
- (4) Providing technical assistance to AAAs with respect to each duty described above.

(b) The Department shall have a designated person(s) who shall:

- (1) Have expertise in nutrition and dietary services and planning.
- (2) Be a registered dietitian.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21; 45 CFR 1321.7; Sections 9102, 9108, and 9109, Welfare and Institutions Code.

§ 7634. AAA Administration of the Elderly Nutrition Program.

§ 7634.1 General Requirements.

(a) The AAA shall ensure the provision of nutrition services as provided in Sections 7250 and 7252 of this Division, through a provider as defined in subsection 7630(k) above.

(b) The AAA shall hire a registered dietitian who shall provide oversight of nutrition services in the PSA.

(c) Targeting Services. The AAA shall set specific objectives in the Area Plan for providing nutrition services to older individuals in accordance with Section 7310 of this Division.

(d) Needs Assessment. In the Area Plan, the AAA shall assess the level of need for congregate and home-delivered meals within the PSA in accordance with Section 7300 of this Division.

(e) Dietary Guidelines. The AAA shall ensure that each meal shall meet the requirements of Section 339 of the OAA (42 U.S.C. 3030g-21).

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Sections 9006, 9111(f), and 9400, and ~~9402~~, Welfare and Institutions Code; 42 U.S.C. 3026(a) and 3030g-21.

§ 7634.3 AAA Registered Dietitian Scope of Work.

The registered dietitian shall:

(a) Participate in developing the AAA nutrition services policies, procedures, and standards.

(b) Participate in developing and evaluating the AAA Request for Proposal (RFP) concerning nutrition services, as described in Sections 7352 through 7364 of this Division.

(c) Participate in Area Plan development related to nutrition services, as described in Sections 7300 through 7320 of this Division.

(d) Annually monitor each nutrition services provider on-site to evaluate the provision of nutrition services. At a minimum, this annual monitoring shall include verification that:

(1) Meals comply with the nutrition requirements of menus, as specified in Section 7638.5 below.

(2) Food safety standards are in accordance with the CURFFL, which includes a HACCP plan.

(3) The curriculum content of all staff training complies with subsection 7636.5(c) below.

(4) All nutrition education services comply with Section 7638.11 below.

(5) Nutrition screening scores are accurately collected from all participants in compliance with requirements in subsection 7636.1(b)(7) below.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Section 9400, Welfare and Institutions Code; Section 7352(j), California Code of Regulations.

§ 7634.5 Selection of an Elderly Nutrition Program Provider.

(a) Competitive Bid Process. The AAA shall award a nutrition services contract to providers to furnish congregate and/or home-delivered meals through a competitive bid process, pursuant to Sections 7352 through 7364 of this Division.

(b) For Profit Provider. Prior to awarding a contract to a for profit entity, the AAA shall secure approval from the Department, pursuant to Section 7362 of this Division.

(c) Direct Services. The AAA must meet requirements in Section 7320 of this Division when providing direct nutrition services.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. ~~3030g-21~~ 3027(a)(18); 45 CFR 92.36.

§ 7636. Elderly Nutrition Program Provider Administration.

§ 7636.1 General Requirements.

(a) Each Elderly Nutrition Program provider shall establish and administer nutrition services with the advice of a registered dietitian in accordance with Section 339 of the OAA (42 U.S.C. 3030g-21), and follow the general requirements in Section 7500 of this Division.

(b) Each Elderly Nutrition Program shall:

(1) Provide at least one (1) meal per day.

(2) Serve meals at least five (5) days per week throughout the service area, but not necessarily five (5) days per week at each site.

(3) Operate at a lesser frequency in a service area where such frequency is not feasible and a lesser frequency is approved by the Department if the AAA is directly providing the services, or by the AAA if the services are being provided under contract.

(4) Comply with the CURFFL and their local health department regarding safe and sanitary preparation and service of meals.

(5) Comply with the Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, regarding staff and participant safety.

(6) At a minimum, quarterly monitor for safe food handling and sanitation practices of food facilities.

(7) Conduct a nutrition screening of congregate and home-delivered meal participants in accordance with Federal requirements found in Section 339 of the OAA (42 U.S.C. 3030g-21).

(8) Where feasible and appropriate, make arrangements for the availability of meals to participants during a major disaster, as defined in 42 U.S.C. 5122(2).

(9) When it is known or reasonably suspected that a program participant has been the victim of abuse, report the abuse to the authorities in accordance with Section 15630, Welfare and Institutions Code.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030e, 3030f, and 3030g-21; 45 CFR 1321.65(e); Sections 7500(c)(3) and 15630, Welfare and Institutions Code.

§ 7636.3 Staff Qualifications.

(a) The nutrition services provider shall have a manager on staff who shall conduct the day-to-day management and administrative functions of the Elderly Nutrition Program,

and either have (1), (2), or (3):

(1) Possess an associate degree in institutional food service management, or a closely related field, such as, but not limited to, restaurant management, plus two (2) years experience as a food service supervisor, or;

(2) Demonstrate experience in food service, such as, but not limited to, cooking at a restaurant, and within twelve (12) months of hire successfully complete a minimum of twenty (20) hours specifically related to food service management, business administration, or personnel management at a college level. Prior to completion of meeting the hours this individual's performance shall be evaluated through quarterly monitoring by a registered dietitian; or,

(3) Two years experience managing food services. Such experience shall be verified and approved by a registered dietitian prior to hire.

(b) Personnel. There shall be, at a minimum, a manager as required in (a) above, and a paid staff or volunteer as required in subsection 7638.1(b)(1) below. There shall also be a sufficient number of qualified staff with the appropriate education and experience to carry out the requirements of the Program. The total number of staff shall be based on the method and level of services provided, and size of the service area.

(c) Preference to Older Individuals. Preference shall be given to hiring older individuals subject to the qualifications of the position.

(d) Volunteer Services. Volunteers shall be recruited and used in any phase of program operations where qualified.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21 Section 7250, California Code of Regulations.

§ 7636.5 Staff/Volunteer Training Requirements.

(a) All staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks. Training, at a minimum, shall include:

(1) Food safety, prevention of foodborne illness, and the principles of the HACCP.

(2) Accident prevention, instruction on fire safety, first aid, choking, earthquake preparedness, and other emergency procedures.

(b) A yearly written plan for staff training shall be developed, implemented, and maintained on file by the nutrition services provider, as required in subsection 7636.7(c) below. The training plan shall identify who is to be trained, who will conduct the training, content of training, and when it is scheduled.

(c) The nutrition services provider's registered dietitian shall review and approve the content of all staff training prior to presentation.

(d) A minimum of four (4) hours of staff training shall be provided annually, by providers,

for paid and volunteer food service staff, including congregate and home-delivered meal staff.

(e) Training sessions shall be evaluated by those receiving the training.

(f) Documentation of training to include evaluations and attendance records shall be maintained, as required in subsection 7636.7(c) below.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Section 7250, California Code of Regulations.

§7636.7 Records, Reports, Distribution of Information, and Confidentiality.

(a) The nutrition services provider shall develop and maintain records on congregate and home-delivered meal participants that are in accordance with subsection 7500(a) of this Division.

(b) The nutrition services provider shall establish procedures in order to comply with subsection 7500(c), of this Division, which ensure the accuracy and authenticity of the number of eligible participant meals served each day. Such procedures shall be kept on file at the provider's site.

(c) Nutrition services provider records and reports shall be made available for audit, assessment, or inspection by authorized representatives of the AAA, or the Department.

(d) The nutrition services provider shall ensure that information about, or obtained from a participant's records, shall be maintained in a confidential manner according to subsection 7500(b) of this Division.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 45 CFR 1321.51 and 1321.65; Section 7500, CCR.

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§7636.9 United States Department of Agriculture (USDA) Reimbursement.

(a) The United States Department of Agriculture (USDA) provides cash assistance in the form of reimbursement for meals served in accordance with Section 311 of the OAA (42 U.S.C. 3030a).

(b) USDA reimbursement may be claimed for meals which:

(1) Meet the dietary guidelines, as specified in Section 339 of the OAA (42 U.S.C. 3030g-21).

(2) Are served to eligible participants.

(3) Are served to volunteers of any age.

(4) Follow the provisions of "Offer Versus Serve", as found in 7 CFR 226.20(p):

(A) Congregate meal participants may be permitted to decline items due to preference or medical reasons.

(B) USDA reimbursement is not affected when a participant declines menu items.

(c) Use of USDA cash reimbursement:

(1) USDA reimbursements shall be used to purchase food used in the Elderly Nutrition Program.

(2) USDA funds shall not be used to meet cost sharing or as matching funds for any other federal program.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030a and 3030g-21; 7 CFR 226.20(p) and 250.42(c)(5)(iii); Office of Management and Budget Circular A-87.C.1.f and Circular A-122.A.1.h.

§ 7638. Nutrition Services Requirements.

§7638.1 Requirements for Congregate Nutrition Services.

(a) Each congregate meal provider shall:

(1) Include procedures for obtaining the views of participants about the services received.

(2) Not preclude the service of a meal to a participant who has failed to make a reservation when food is available.

(b) Each congregate meal site shall meet all of the following:

(1) Have a paid staff or volunteer designated to be responsible for the day-to-day activities at each site, and physically be on-site during the time that Elderly Nutrition Program activities are taking place.

(2) Have restrooms, lighting, and ventilation which meet the requirements of the CURFFL.

(3) Have equipment, including tables and chairs, that is sturdy and appropriate for older individuals. Tables shall be arranged to assure ease of access and encourage socialization.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21, Section 113700 et seq. Health and Safety Code.

§7638.3 Requirements for Home-Delivered Nutrition Services.

Each home-delivered meal provider shall:

(a) Develop and implement criteria to assess the level of need for home-delivered

nutrition services of each eligible participant.

(1) An initial determination of eligibility may be accomplished by telephone.

(2) A written assessment shall be done in the home within two (2) weeks of beginning meal service, and shall include an assessment of the type of meal appropriate for the participant in their living environment.

(3) An older individual eligible for receiving home-delivered meals shall be assessed for need for nutrition-related supportive services, and referred as necessary.

(4) Reassessment of need shall be determined quarterly. Such reassessment shall be done in the home of the participant at least every other quarter.

(b) Provide written instructions in the language of the majority of the participants for handling and re-heating of the meals.

(c) Establish a waiting list for home-delivered meals whenever the home-delivered meal providers are unable to provide meals to all eligible individuals. The decision to place eligible recipients of a home-delivered meal on a waiting list, and their position on such a list, shall be based on greatest need and/or in accordance with policy established by the home-delivered meal provider, in consultation with the AAA.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Section 9501, Welfare and Institutions Code; 42 U.S.C. 3030g-21.

§7638.5 Nutrition Requirements of Meals.

(a) Compliance with dietary guidelines:

(1) In accordance with Section 339 of the OAA (42 U.S.C. 3030g-21), each meal shall provide the following to participating individuals:

(A) If the program provides one (1) meal per day, a minimum of one-third (1/3) of the RDAs as established by the Food and Nutrition Board of the Institute of Medicine of the National Research Council of the National Academy of Sciences.

(B) If the program provides two (2) meals per day, a minimum of two-thirds (2/3) of the RDAs.

(C) If the program provides three (3) meals per day, one hundred (100) percent of the RDAs.

(2) Meals shall comply with the Dietary Guidelines for Americans, published by the USDA and the U.S. Department of Health and Human Services.

(3) The California Daily Food Guide, based on the Dietary Guidelines for Americans, shall be used when planning menus.

(b) A meal analysis approved by a registered dietitian shall be done to ensure

compliance with subsection (a) above. A meal analysis shall be based on either the meal component criteria developed by the Department, as found in subsection (d)(1-8) below, or a detailed nutritional analysis. When utilizing a detailed nutritional analysis the meals shall be analyzed and a weekly average used for evaluation purposes.

(c) Food substitutions to meals originally planned must meet the requirements of this Section and be approved by a registered dietitian.

(d) Meals using component criteria developed by the Department shall conform to the following:

(1) Each meal shall provide a weekly average caloric range of 600 to 800 kilocalories per meal.

(2) Each meal shall provide a three (3) ounce cooked edible portion of meat, fish, poultry, eggs, cheese, or the protein equivalent daily.

(3) Each meal shall contain at least two (2) one-half (1/2) cup servings, drained weight or volume, of different vegetables or fruits or their juices.

(4) Each meal shall contain at least one (1) serving of whole grain or enriched bread, or bread alternatives.

(5) Each meal shall contain eight (8) ounces of fortified non-fat milk, low-fat milk, or buttermilk, or the calcium equivalent to one-third (1/3) of the RDAs.

(6) Each meal shall contain one-half (1/2) cup serving of a dessert.

(7) Each meal shall provide one serving of a vitamin C-rich food, fruit or vegetable. Partial strength or simulated fruit juices or drinks, when fortified with vitamin C, may count as a vitamin C source if at least two (2) servings of fruits and/or vegetables are included in the meal.

(8) A vitamin A-rich food shall be served at least three (3) times per week for a five (5)-days a week menu, and four (4) times per week for a seven (7)-days a week menu.

(e) Menus shall:

(1) Be planned for a minimum of four (4) weeks.

(2) Be posted in a location easily seen by participants at each congregate meal site.

(3) Be legible and easy to read in the language of the majority of the participants.

(4) Reflect cultural and ethnic dietary needs of participants, when feasible and appropriate.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21.

§ 7638.7 Eligibility for Nutrition Services.

(a) Congregate Meals. Individuals eligible to receive a meal at a congregate nutrition site are:

(1) Any older individual.

(2) The spouse of any older individual.

(3) A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided.

(4) A disabled individual who resides at home with and accompanies an older individual who participates in the program.

(b) Volunteer Meals.

(1) A volunteer under age sixty (60) may be offered a meal if doing so will not deprive an older individual of a meal.

(2) A written policy for providing and accounting for volunteer meals shall be developed and implemented.

c. Home-Delivered Meals.

Individuals eligible to receive a home-delivered meal are:

(1) Any older individual who is frail, as defined in Section 7119 of this Division, homebound by reason of illness, disability, or isolation.

(2) A spouse of a person in subsection (c)(1) above, regardless of age or condition, if an assessment concludes that it is in the best interest of the homebound older individual.

(3) An individual with a disability who resides at home with older individuals if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.

(4) Priority shall be given to older individuals in (c)(1) above.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030g-21; 45 CFR 1321.69.

§7638.9 Contributions and Fees for Cost of Meals.

(a) An eligible individual who receives a meal shall be given the opportunity to contribute to the cost of the meal.

(b) The nutrition services provider shall develop a suggested contribution. When developing this contribution amount, the income ranges of the older individuals in the

community and the provider's other sources of income shall be considered.

(c) A sign indicating the suggested contribution for eligible individuals, and the fee for guests, shall be posted near the contribution container at each congregate meal site. Guest fees shall comply with federal guidelines.

(d) No eligible individual shall be denied participation because of failure or inability to contribute.

(e) The provider shall ensure that the amount of the eligible participant's contribution is kept confidential.

(f) The nutrition services provider shall establish written procedures to protect contributions and fees from loss, mishandling, and theft. Such procedures shall be kept on file at the provider's site.

(g) All contributions and fees shall be identified as program income and used to increase the number of meals served, to facilitate access to such meals, and to provide nutrition-related supportive services.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3021(b) and 3030g-21; 45 CFR 1321.67.

§ 7638.11 Nutrition Education Services for Participants.

(a) Nutrition education shall be provided a minimum of four (4) times per year to participants in congregate and home-delivered meal programs. Nutrition education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Printed material may be used as the sole nutrition education component for the home-delivered meal participants, as well as in conjunction with a congregate meal nutrition education presentation.

(b) A registered dietitian shall provide input, review, and approve the content of nutrition education prior to presentation.

(c) Nutrition education services shall be based on the particular need of congregate and home-delivered meal participants. An annual needs assessment shall be performed by the nutrition services provider to make this determination.

(d) A yearly written nutrition education plan shall be developed, implemented, monitored, and kept on file by the nutrition services provider as required in subsection 7636.7(c) above.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: Section 9500, Welfare and Institutions Code; 42 U.S.C. 3030g-21; 45 CFR 1321.

§ 7638.13 Nutrition Counseling Service for Participants.

(a) Nutrition counseling service is a nutrition service which may be provided when feasible and appropriate.

(b) A nutrition services provider shall have written policies and procedures, which ensure that nutrition counseling is provided only by a registered dietitian.

Note: Authority cited: Sections 9102 and 9105, Welfare and Institutions Code.

Reference: 42 U.S.C. 3030e and 3030g-21; Section 2586, Business & Professions Code.

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